

**ASSEMBLY BILL**

**No. 721**

**Introduced by Assembly Member Matthews**

February 19, 2003

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An act to amend Section 65302 of, and to add Chapter 12 (commencing with Section 66125) to Division 1 of Title 7 of, the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 721, as introduced, Matthews. Urban growth boundaries: smart growth model ordinance.

(1) The Planning and Zoning Law requires that a general plan consist of a statement of development policies and include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals, including, among other things, a land use element.

This bill would require the land use element and diagram of a general plan to include an urban growth boundary that indicates the area to which the city or county intends to extend urban services over the next 20 years. The bill would require the land use element to include policies that, among other things, encourage urban growth within this boundary and requires that the boundary be consistent with the objectives of the State Comprehensive Plan.

By creating new duties for local public officials, the bill would impose a state-mandated local program.

The bill would provide for state reimbursement of a portion of the planning costs incurred by cities and counties that submit an updated land use element with an urban growth boundary to the Office of Planning and Research for review and acceptance on or before July 1, 2004. These cities and counties would also be eligible for priority

consideration by the California Infrastructure and Economic Development Bank when seeking funding for local capital improvement and other infrastructure projects, as specified.

(2) The Planning and Zoning Law requires the Office of Planning and Research within the Governor's office to serve as the state's comprehensive planning agency in the formulation, evaluation, and updating of, among other things, long-range goals and policies for land use, population growth and distribution, urban expansion, development, open space, resource preservation and utilization, air and water quality, and other factors that shape statewide development patterns and significantly influence the quality of the state environment. This law also authorizes regional planning districts to prepare, maintain, and regularly review and revise a regional plan for the physical development of the area within the district, and requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified housing element, subject to evaluation by the Department of Housing and Community Development and, for that purpose, prescribes criteria for determining the city or county share of the regional housing needs, including a requirement that the distribution of these needs takes into account, among other things, market demand for housing and employment opportunities.

This bill would require the Office of Planning and Research to develop a state model zoning ordinance that emphasizes "smart growth" concepts and to make the ordinance available to local planning agencies. It would require the office to review the ordinance and its use and implementation at least once every 5 years.

The bill would require any local agency that adopts and implements an ordinance that is deemed to be the same as or substantially comparable to the above described ordinance to receive priority eligibility in the award of infrastructure, housing, commercial or industrial development, or other economic development grants.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide



and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 65302 of the Government Code is  
2 amended to read:

3 65302. The general plan shall consist of a statement of  
4 development policies and shall include a diagram or diagrams and  
5 text setting forth objectives, principles, standards, and plan  
6 proposals. The plan shall include the following elements:

7 (a) A land use element which designates the proposed general  
8 distribution and general location and extent of the uses of the land  
9 for housing, business, industry, open space, including agriculture,  
10 natural resources, recreation, and enjoyment of scenic beauty,  
11 education, public buildings and grounds, solid and liquid waste  
12 disposal facilities, and other categories of public and private uses  
13 of land. The land use element shall include a statement of the  
14 standards of population density and building intensity  
15 recommended for the various districts and other territory covered  
16 by the plan. The land use element shall identify areas covered by  
17 the plan which are subject to flooding and shall be reviewed  
18 annually with respect to those areas. The land use element shall  
19 designate, in a land use category that provides for timber  
20 production, those parcels of real property zoned for timberland  
21 production pursuant to the California Timberland Productivity  
22 Act of 1982, Chapter 6.7 (commencing with Section 51100) of  
23 Part 1 of Division 1 of Title 5.

24 (1) *The land use element and corresponding land use diagram*  
25 *shall include an urban growth boundary. The boundary shall*  
26 *indicate the area to which the jurisdiction intends to extend urban*  
27 *services over the next 20 years. These services shall include, but*  
28 *not be limited to, water, sewer, public transportation, recreation,*  
29 *energy, waste disposal, and administration. The boundary shall be*

1 *based upon an analysis of the capacities of these services and how*  
2 *they will be expanded to serve the area inside the boundary. The*  
3 *boundary shall also be based upon an analysis of environmental*  
4 *constraints, including, but not limited to, prime agricultural lands,*  
5 *agricultural lands of state and local importance, creeks, lakes,*  
6 *riparian area, wetlands, forest lands, wildlife habitat for species*  
7 *of concern, scenic resources, lands for resource extraction, areas*  
8 *of natural hazards, recreational facilities, and any other area*  
9 *designated in the Open Space and Conservation Elements of the*  
10 *general plan.*

11 *(2) The land use element shall include policies that state all of*  
12 *the following:*

13 *(A) Urban growth is encouraged within the boundaries of the*  
14 *urban growth boundary.*

15 *(B) The boundary shall be in effect for a period of not less than*  
16 *20 years.*

17 *(C) Urban services shall not be extended to areas outside the*  
18 *boundary without an amendment to the general plan.*

19 *(D) Major expansions of the boundary during the 20-year*  
20 *period shall be prohibited unless certain conditions are met, for*  
21 *example, infill development within the existing boundary is no*  
22 *longer feasible.*

23 *(E) The boundary shall be coterminous with the adopted sphere*  
24 *of influence for that jurisdiction, to the extent possible, provided*  
25 *that the sphere of influence is based upon the factors cited above.*

26 *(3) The boundary shall be consistent with objectives of the state*  
27 *comprehensive plan, if legislation to require preparation of such*  
28 *a plan is enacted.*

29 *(4) Jurisdictions that submit an updated land use element with*  
30 *an urban growth boundary to the Office of Planning and Research*  
31 *for review and acceptance on or before July 1, 2004, shall be*  
32 *eligible for state reimbursement of a portion of planning costs*  
33 *incurred by the jurisdiction in preparing an updated land use*  
34 *element. The reimbursement shall be provided through a return of*  
35 *Educational Revenue Augmentation Funds to the local*  
36 *jurisdiction, after an application has been submitted and approved*  
37 *by the Governor's office. Reimbursement shall be limited to a*  
38 *single payment of no more than twenty-five thousand dollars*  
39 *(\$25,000) for a city or county under a population of 50,000*

1 *persons, or fifty thousand dollars (\$50,000), for a city or county*  
2 *over a population of 50,000 persons.*

3 *(5) Jurisdictions that submit an updated land use element with*  
4 *an urban growth boundary to the Office of Planning and Research*  
5 *for review and acceptance shall also be eligible for priority*  
6 *consideration by the California Infrastructure and Economic*  
7 *Development Bank when seeking funding for local capital*  
8 *improvement and other infrastructure projects that are consistent*  
9 *with the updated land use element, with all of the other elements*  
10 *of the general plan, and with objectives of the state comprehensive*  
11 *plan, if legislation to require preparation of such a plan is enacted.*

12 (b) A circulation element consisting of the general location and  
13 extent of existing and proposed major thoroughfares,  
14 transportation routes, terminals, and other local public utilities and  
15 facilities, all correlated with the land use element of the plan.

16 (c) A housing element as provided in Article 10.6  
17 (commencing with Section 65580).

18 (d) A conservation element for the conservation, development,  
19 and utilization of natural resources including water and its  
20 hydraulic force, forests, soils, rivers and other waters, harbors,  
21 fisheries, wildlife, minerals, and other natural resources. That  
22 portion of the conservation element including waters shall be  
23 developed in coordination with any countywide water agency and  
24 with all district and city agencies which have developed, served,  
25 controlled or conserved water for any purpose for the county or  
26 city for which the plan is prepared. Coordination shall include the  
27 discussion and evaluation of any water supply and demand  
28 information described in Section 65352.5, if that information has  
29 been submitted by the water agency to the city or county. The  
30 conservation element may also cover:

31 (1) The reclamation of land and waters.

32 (2) Prevention and control of the pollution of streams and other  
33 waters.

34 (3) Regulation of the use of land in stream channels and other  
35 areas required for the accomplishment of the conservation plan.

36 (4) Prevention, control, and correction of the erosion of soils,  
37 beaches, and shores.

38 (5) Protection of watersheds.

39 (6) The location, quantity and quality of the rock, sand and  
40 gravel resources.

(7) Flood control.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560).

(f) A noise element which shall identify and appraise noise problems in the community. The noise element shall recognize the guidelines established by the Office of Noise Control in the State Department of Health Services and shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average level ( $L_{dn}$ ). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami,

1 seiche, and dam failure; slope instability leading to mudslides and  
2 landslides; subsidence, liquefaction and other seismic hazards  
3 identified pursuant to Chapter 7.8 (commencing with Section  
4 2690) of the Public Resources Code, and other geologic hazards  
5 known to the legislative body; flooding; and wild land and urban  
6 fires. The safety element shall include mapping of known seismic  
7 and other geologic hazards. It shall also address evacuation routes,  
8 peakload water supply requirements, and minimum road widths  
9 and clearances around structures, as those items relate to identified  
10 fire and geologic hazards. Prior to the periodic review of its  
11 general plan and prior to preparing or revising its safety element,  
12 each city and county shall consult the Division of Mines and  
13 Geology of the Department of Conservation and the Office of  
14 Emergency Services for the purpose of including information  
15 known by and available to the department and the office required  
16 by this subdivision.

17 To the extent that a county's safety element is sufficiently  
18 detailed and contains appropriate policies and programs for  
19 adoption by a city, a city may adopt that portion of the county's  
20 safety element that pertains to the city's planning area in  
21 satisfaction of the requirement imposed by this subdivision.

22 At least 45 days prior to adoption or amendment of the safety  
23 element, each county and city shall submit to the Division of Mines  
24 and Geology of the Department of Conservation one copy of a  
25 draft of the safety element or amendment and any technical studies  
26 used for developing the safety element. The division may review  
27 drafts submitted to it to determine whether they incorporate known  
28 seismic and other geologic hazard information, and report its  
29 findings to the planning agency within 30 days of receipt of the  
30 draft of the safety element or amendment pursuant to this  
31 subdivision. The legislative body shall consider the division's  
32 findings prior to final adoption of the safety element or  
33 amendment unless the division's findings are not available within  
34 the above prescribed time limits or unless the division has  
35 indicated to the city or county that the division will not review the  
36 safety element. If the division's findings are not available within  
37 those prescribed time limits, the legislative body may take the  
38 division's findings into consideration at the time it considers future  
39 amendments to the safety element. Each county and city shall  
40 provide the division with a copy of its adopted safety element or



1 amendments. The division may review adopted safety elements or  
2 amendments and report its findings. All findings made by the  
3 division shall be advisory to the planning agency and legislative  
4 body.

5 SEC. 2. Chapter 12 (commencing with Section 66125) is  
6 added to Division 1 of Title 7 of the Government Code, to read:

7  
8 CHAPTER 12. SMART GROWTH MODEL ZONING ORDINANCE  
9

10 66125. (a) The Office of Planning and Research shall  
11 develop, in consultation with the appropriate and affected parties,  
12 a state model zoning ordinance that emphasizes “smart growth”  
13 concepts including, but not limited to, mixed use, promotion of  
14 pedestrian traffic, mass transit, and infill development.

15 (b) The Office of Planning and Research shall make the state  
16 model zoning ordinance available to local planning agencies  
17 within the state and encourage them to adopt the state model  
18 zoning ordinance or a similar ordinance in their jurisdictions.

19 (c) At least once every five years, the Office of Planning and  
20 Research shall review the state model zoning ordinance to ensure  
21 its continued applicability and relevance.

22 (d) At least once every five years, the Office of Planning and  
23 Research shall review the use and implementation of the state  
24 model zoning ordinance by local agencies.

25 66126. (a) Any local agency that adopts and implements an  
26 ordinance deemed by the Office of Planning and Research to be the  
27 same as or substantially comparable to the state model zoning  
28 ordinance described in Section 66125 shall receive priority  
29 eligibility in the award of infrastructure, housing, commercial or  
30 industrial development, or other economic development grants.

31 (b) Pursuant to subdivision (a), any state agency or department  
32 with the authority to award grants to local agencies shall facilitate  
33 priority funding as follows:

34 (1) In determining local agency grant recipients, the state  
35 agency or department shall consider the adoption of the state  
36 model zoning ordinance and adequate demonstration of its  
37 implementation as a factor in the grant consideration and  
38 distribution process. This requirement may be accomplished  
39 through the modification of grant application forms to provide for  
40 the assessment of this priority funding criteria and the furnishing

1 of bonus points for these achievements in the grant consideration  
2 and distribution process.

3 (2) Priority funding shall only be given to local agency grant  
4 applicants that are otherwise qualified to receive awards from the  
5 specific grant program at issue.

6 (c) For purposes of this section, “infrastructure” includes  
7 transportation, schools, housing, technology and  
8 telecommunications, as well as resources, including, but not  
9 limited to, water and power systems, parks, and other public  
10 facilities. “Infrastructure” shall not include emergency and health  
11 services or related facilities.

12 SEC. 3. Notwithstanding Section 17610 of the Government  
13 Code, if the Commission on State Mandates determines that this  
14 act contains costs mandated by the state, reimbursement to local  
15 agencies and school districts for those costs shall be made pursuant  
16 to Part 7 (commencing with Section 17500) of Division 4 of Title  
17 2 of the Government Code. If the statewide cost of the claim for  
18 reimbursement does not exceed one million dollars (\$1,000,000),  
19 reimbursement shall be made from the State Mandates Claims  
20 Fund.

